

By: Smith of Harris

H.B. No. 2694

Substitute the following for H.B. No. 2694:

By: Chisum

C.S.H.B. No. 2694

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas Commission
3 on Environmental Quality and abolishing the On-site Wastewater
4 Treatment Research Council.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. GENERAL PROVISIONS

7 SECTION 1.01. The heading to Chapter 5, Water Code, is
8 amended to read as follows:

9 CHAPTER 5. TEXAS [~~NATURAL RESOURCE CONSERVATION~~] COMMISSION ON
10 ENVIRONMENTAL QUALITY

11 SECTION 1.02. Section 5.014, Water Code, is amended to read
12 as follows:

13 Sec. 5.014. SUNSET PROVISION. The Texas [~~Natural Resource~~
14 ~~Conservation~~] Commission on Environmental Quality is subject to
15 Chapter 325, Government Code (Texas Sunset Act). Unless continued
16 in existence as provided by that chapter, the commission is
17 abolished and this chapter expires September 1, 2023 [~~2011~~].

18 SECTION 1.03. Subchapter C, Chapter 5, Water Code, is
19 amended by adding Section 5.061 to read as follows:

20 Sec. 5.061. PROHIBITION ON ACCEPTING CAMPAIGN
21 CONTRIBUTIONS. A member of the commission may not accept a
22 contribution to a campaign for election to an elected office. If a
23 member of the commission accepts a campaign contribution, the
24 person is considered to have resigned from the office and the office

1 immediately becomes vacant. The vacancy shall be filled in the
2 manner provided by law.

3 SECTION 1.04. Subchapter D, Chapter 5, Water Code, is
4 amended by adding Section 5.1031 to read as follows:

5 Sec. 5.1031. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE
6 RESOLUTION. (a) The commission shall develop and implement a
7 policy to encourage the use of:

8 (1) negotiated rulemaking procedures under Chapter
9 2008, Government Code, for the adoption of commission rules; and

10 (2) appropriate alternative dispute resolution
11 procedures under Chapter 2009, Government Code, to assist in the
12 resolution of internal and external disputes under the commission's
13 jurisdiction.

14 (b) The commission's procedures relating to alternative
15 dispute resolution must conform, to the extent possible, to any
16 model guidelines issued by the State Office of Administrative
17 Hearings for the use of alternative dispute resolution by state
18 agencies.

19 (c) The commission shall:

20 (1) coordinate the implementation of the policy
21 adopted under Subsection (a);

22 (2) provide training as needed to implement the
23 procedures for negotiated rulemaking or alternative dispute
24 resolution; and

25 (3) collect data concerning the effectiveness of those
26 procedures.

27 SECTION 1.05. Section 5.2291(b), Water Code, is amended to

1 read as follows:

2 (b) Except as provided by Section 5.2292, the [The]
3 procurement of a contract for scientific and technical
4 environmental services shall be conducted under the procedures for
5 professional services selection provided in Subchapter A, Chapter
6 2254, Government Code.

7 SECTION 1.06. Subchapter F, Chapter 5, Water Code, is
8 amended by adding Section 5.2292 to read as follows:

9 Sec. 5.2292. CONTRACTS FOR SERVICES UNDER PETROLEUM STORAGE
10 TANK STATE-LEAD PROGRAM. (a) The executive director may directly
11 award a contract for scientific and technical environmental
12 services to a person if:

13 (1) the contract is for the performance of services
14 related to the remediation of a site that has been placed in the
15 state-lead program under Section 26.3573(r-1);

16 (2) the person has registered to perform corrective
17 action under Section 26.364;

18 (3) the person is eligible to receive a contract award
19 from the state;

20 (4) the person was performing related work at the site
21 on or before July 1, 2011; and

22 (5) the contract includes all contract provisions
23 required for state contracts.

24 (b) Notwithstanding Section 2254.004, Government Code, the
25 executive director may directly award a contract for engineering
26 services to a person if:

27 (1) the contract is for the performance of services

1 related to the remediation of a site that has been placed in the
2 state-lead program under Section 26.3573(r-1);

3 (2) the person is licensed under Chapter 1001,
4 Occupations Code;

5 (3) the person has registered to perform corrective
6 action under Section 26.364;

7 (4) the person is eligible to receive a contract award
8 from the state;

9 (5) the person was performing related work at the site
10 on or before July 1, 2011; and

11 (6) the contract includes all contract provisions
12 required for state contracts.

13 (c) Nothing in Subsection (a) or (b) requires the executive
14 director to make an award at a site or prevents the executive
15 director from negotiating additional contract terms, including
16 qualifications.

17 SECTION 1.07. Section 12.052(a), Water Code, is amended to
18 read as follows:

19 (a) The commission shall make and enforce rules and orders
20 and shall perform all other acts necessary to provide for the safe
21 construction, maintenance, repair, and removal of dams located in
22 this state. In performing the commission's duties under this
23 subsection, the commission shall identify and focus on the most
24 hazardous dams in the state.

25 ARTICLE 2. TRANSFER OF CERTAIN DUTIES TO THE RAILROAD COMMISSION

26 SECTION 2.01. Section 91.011, Natural Resources Code, is
27 amended to read as follows:

1 Sec. 91.011. CASING. (a) Before drilling into the oil or
2 gas bearing rock, the owner or operator of a well being drilled for
3 oil or gas shall encase the well with good and sufficient wrought
4 iron or steel casing or with any other material that meets standards
5 adopted by the commission, particularly where wells could be
6 subjected to corrosive elements or high pressures and temperatures,
7 in a manner and to a depth that will exclude surface or fresh water
8 from the lower part of the well from penetrating the oil or gas
9 bearing rock, and if the well is drilled through the first into the
10 lower oil or gas bearing rock, the well shall be cased in a manner
11 and to a depth that will exclude fresh water above the last oil or
12 gas bearing rock penetrated.

13 (b) The commission shall adopt rules regarding the depth of
14 well casings necessary to meet the requirements of this section.

15 SECTION 2.02. Subchapter B, Chapter 91, Natural Resources
16 Code, is amended by adding Section 91.0115 to read as follows:

17 Sec. 91.0115. CASING; LETTER OF DETERMINATION. (a) The
18 commission shall issue, on request from an applicant for a permit
19 for a well to be drilled into oil or gas bearing rock, a letter of
20 determination stating the total depth of surface casing required
21 for the well by Section 91.011.

22 (b) The commission may charge a fee in an amount to be
23 determined by the commission for a letter of determination.

24 (c) The commission shall charge a fee not to exceed \$75, in
25 addition to the fee required by Subsection (b), for processing a
26 request to expedite a letter of determination. Money collected
27 under this subsection may be used to study and evaluate electronic

1 access to geologic data and surface casing depths under Section
2 91.020.

3 SECTION 2.03. Subchapter B, Chapter 91, Natural Resources
4 Code, is amended by adding Section 91.020 to read as follows:

5 Sec. 91.020. ELECTRONIC GEOLOGIC DATA. The commission
6 shall work cooperatively with other appropriate state agencies to
7 study and evaluate electronic access to geologic data and surface
8 casing depths necessary to protect usable groundwater in this
9 state.

10 SECTION 2.04. Subchapter D, Chapter 91, Natural Resources
11 Code, is amended by adding Section 91.1015 to read as follows:

12 Sec. 91.1015. GROUNDWATER PROTECTION REQUIREMENTS. The
13 commission shall adopt rules to establish groundwater protection
14 requirements for operations that are within the jurisdiction of the
15 commission, including requirements relating to the depth of surface
16 casing for wells.

17 SECTION 2.05. Section 27.033, Water Code, is amended to
18 read as follows:

19 Sec. 27.033. LETTER OF DETERMINATION [~~FROM EXECUTIVE~~
20 ~~DIRECTOR~~]. A person making application to the railroad commission
21 for a permit under this chapter shall submit with the application a
22 letter of determination from the railroad commission [~~from the~~
23 ~~executive director~~] stating that drilling and using the disposal
24 well and injecting oil and gas waste into the subsurface stratum
25 will not endanger the freshwater strata in that area and that the
26 formation or stratum to be used for the disposal is not freshwater
27 sand.

1 SECTION 2.06. Section 27.046, Water Code, is amended to
2 read as follows:

3 Sec. 27.046. LETTER OF DETERMINATION [~~FROM EXECUTIVE~~
4 ~~DIRECTOR~~]. (a) The railroad commission may not issue a permit
5 under rules adopted under this subchapter until the railroad
6 commission issues to the applicant for the permit [~~provides to the~~
7 ~~railroad commission~~] a letter of determination [~~from the executive~~
8 ~~director~~] stating that drilling and operating the anthropogenic
9 carbon dioxide injection well for geologic storage or operating the
10 geologic storage facility will not injure any freshwater strata in
11 that area and that the formation or stratum to be used for the
12 geologic storage facility is not freshwater sand.

13 (b) To make the determination required by Subsection (a),
14 the railroad commission [~~executive director~~] shall review:

- 15 (1) the area of review and corrective action plans;
16 (2) any subsurface monitoring plans required during
17 injection or post injection;
18 (3) any postinjection site care plans; and
19 (4) any other elements of the application reasonably
20 required in order for the railroad commission [~~executive director~~]
21 to make the determination required by Subsection (a).

22 (c) The railroad commission shall adopt rules to implement
23 and administer this section.

24 SECTION 2.07. Section 5.701(r), Water Code, is repealed.

25 SECTION 2.08. (a) The Railroad Commission of Texas shall
26 adopt rules to implement the changes in law made by this article not
27 later than March 1, 2012.

1 (b) A rule, form, policy, or procedure of the Texas
2 Commission on Environmental Quality related to the changes in law
3 made by this article continues in effect as a rule, form, policy, or
4 procedure of the Railroad Commission of Texas and remains in effect
5 until amended or replaced by that agency.

6 ARTICLE 3. PUBLIC INTEREST

7 SECTION 3.01. Subchapter F, Chapter 5, Water Code, is
8 amended by adding Section 5.239 to read as follows:

9 Sec. 5.239. PUBLIC EDUCATION AND ASSISTANCE. (a) The
10 executive director shall ensure that the agency is responsive to
11 environmental and citizens' concerns, including environmental
12 quality and consumer protection.

13 (b) The executive director shall develop and implement a
14 program to:

15 (1) provide a centralized point for the public to
16 access information about the commission and to learn about matters
17 regulated by the commission;

18 (2) identify and assess the concerns of the public in
19 regard to matters regulated by the commission; and

20 (3) respond to the concerns identified by the program.

21 SECTION 3.02. Section 5.271, Water Code, is amended to read
22 as follows:

23 Sec. 5.271. CREATION AND GENERAL RESPONSIBILITY OF THE
24 OFFICE OF PUBLIC INTEREST COUNSEL. The office of public interest
25 counsel is created to ensure that the commission promotes the
26 public's interest [~~and is responsive to environmental and citizens'~~
27 ~~concerns including environmental quality and consumer protection].~~

1 The primary duty of the office is to represent the public interest
2 as a party to matters before the commission.

3 SECTION 3.03. Subchapter G, Chapter 5, Water Code, is
4 amended by adding Section 5.2725 to read as follows:

5 Sec. 5.2725. ANNUAL REPORT; PERFORMANCE MEASURES. (a) The
6 office of public interest counsel shall report to the commission
7 each year in a public meeting held on a date determined by the
8 commission to be timely for the commission to include the reported
9 information in the commission's reports under Sections 5.178(a) and
10 (b) and in the commission's biennial legislative appropriations
11 requests as appropriate:

12 (1) an evaluation of the office's performance in
13 representing the public interest in the preceding year;

14 (2) an assessment of the budget needs of the office,
15 including the need to contract for outside expertise; and

16 (3) any legislative or regulatory changes recommended
17 under Section 5.273.

18 (b) The commission and the office of public interest counsel
19 shall work cooperatively to identify performance measures for the
20 office.

21 SECTION 3.04. Subchapter G, Chapter 5, Water Code, is
22 amended by adding Section 5.276 to read as follows:

23 Sec. 5.276. FACTORS FOR PUBLIC INTEREST REPRESENTATION.

24 (a) The commission by rule, after consideration of recommendations
25 from the office of public interest counsel, shall establish factors
26 the public interest counsel must consider before the public
27 interest counsel decides to represent the public interest as a

1 party to a commission proceeding.

2 (b) Rules adopted under this section must include:

3 (1) factors to determine the nature and extent of the
4 public interest; and

5 (2) factors to consider in prioritizing the workload
6 of the office of public interest counsel.

7 ARTICLE 4. COMPLIANCE AND ENFORCEMENT

8 SECTION 4.01. Section 5.751, Water Code, is amended to read
9 as follows:

10 Sec. 5.751. APPLICABILITY. This subchapter applies to
11 programs under the jurisdiction of the commission under Chapters
12 26, ~~and~~ 27, and 32 of this code and Chapters 361, 375, 382, and
13 401, Health and Safety Code. It does not apply to occupational
14 licensing programs under the jurisdiction of the commission.

15 SECTION 4.02. Section 5.752(1), Water Code, is amended to
16 read as follows:

17 (1) "Applicable legal requirement" means an
18 environmental law, regulation, permit, order, consent~~[r]~~ decree,
19 or other requirement.

20 SECTION 4.03. The heading to Section 5.753, Water Code, is
21 amended to read as follows:

22 Sec. 5.753. STANDARDS ~~[STANDARD]~~ FOR EVALUATING AND USING
23 COMPLIANCE HISTORY.

24 SECTION 4.04. Section 5.753, Water Code, is amended by
25 amending Subsections (a), (b), and (d) and adding Subsection (d-1)
26 to read as follows:

27 (a) Consistent with other law and the requirements

1 necessary to maintain federal program authorization, the
2 commission by rule shall develop standards [~~a uniform standard~~] for
3 evaluating and using compliance history.

4 (b) The components of compliance history must include:

5 (1) enforcement orders, court judgments, [~~consent~~
6 ~~decrees,~~] and criminal convictions of this state [~~and the federal~~
7 ~~government~~] relating to compliance with applicable legal
8 requirements under the jurisdiction of the commission [~~or the~~
9 ~~United States Environmental Protection Agency~~];

10 (2) notwithstanding any other provision of this code,
11 orders issued under Section 7.070;

12 (3) to the extent readily available to the commission,
13 enforcement orders, court judgments, consent decrees, and criminal
14 convictions relating to violations of environmental rules [~~laws~~] of
15 the United States Environmental Protection Agency [~~other states~~];
16 and

17 (4) changes in ownership.

18 (d) For purposes of using compliance history in any
19 escalation of penalties, the commission may not use notices of
20 violation unless the commission takes subsequent action or the
21 person is classified as a repeat violator as determined according
22 to criteria established under Section 5.754(c). If the commission
23 includes a notice of violation in a compliance history, the listing
24 must be preceded by the following statement prominently displayed:
25 "A notice of violation represents a written allegation of a
26 violation of a specific regulatory requirement from the commission
27 to a regulated entity. A notice of violation is not a final

1 enforcement action nor proof that a violation has actually
2 occurred." [~~The set of components shall include notices of~~
3 ~~violations.~~] A notice of violation administratively determined to
4 be without merit may [~~shall~~] not be included in a compliance
5 history. A notice of violation that is included in a compliance
6 history shall be removed from the compliance history if the
7 commission subsequently determines the notice of violation to be
8 without merit.

9 (d-1) For purposes of listing compliance history or using
10 compliance history in any escalation of penalties, the commission
11 may not include as a notice of violation deviations or violations
12 provided by a person to the commission, such as deviations reported
13 in discharge monitoring reports or Title V deviation reports,
14 unless the commission issues a written notice of violation. Final
15 enforcement orders or judgments resulting from self-reported
16 deviations or violations may be considered as compliance history
17 components for purposes of determining compliance history.

18 SECTION 4.05. Section 5.754, Water Code, is amended by
19 amending Subsections (a), (b), (c), (d), (e), (g), and (h) and
20 adding Subsection (e-1) to read as follows:

21 (a) The commission by rule shall establish a set of
22 standards for the classification of a person's compliance history
23 as a means of evaluating compliance history. The commission may
24 consider the person's classification when using compliance history
25 under Subsection (e).

26 (b) Rules adopted under Subsection (a):

27 (1) [~~this section~~] must, at a minimum, provide for three

1 classifications of compliance history in a manner adequate to
2 distinguish among:

3 (A) unsatisfactory [~~(1) poor~~] performers, or
4 regulated entities that in the commission's judgment perform below
5 minimal acceptable performance standards established by the
6 commission [~~average~~];

7 (B) satisfactory [~~(2) average~~] performers, or
8 regulated entities that generally comply with environmental
9 regulations; and

10 (C) [(3)] high performers, or regulated entities
11 that have an above-satisfactory [~~above-average~~] compliance record;

12 (2) may establish a category of unclassified
13 performers, or regulated entities for which the commission does not
14 have adequate compliance information about the site; and

15 (3) must take into account both positive and negative
16 factors related to the operation, size, and complexity of the site,
17 including whether the site is subject to Title V of the federal
18 Clean Air Act (42 U.S.C. Section 7661 et seq.).

19 (c) In classifying a person's compliance history, the
20 commission shall:

21 (1) determine whether a violation of an applicable
22 legal requirement is of major, moderate, or minor significance;

23 (2) establish criteria for classifying a repeat
24 violator, giving consideration to the size [~~number~~] and complexity
25 of the site at which the violations occurred, and limiting
26 consideration to violations of the same nature and the same
27 environmental media that occurred in the preceding five years

1 ~~[facilities owned or operated by the person]~~; and

2 (3) consider:

3 (A) the significance of the violation and whether
4 the person is a repeat violator;

5 (B) the size and complexity of the site,
6 including whether the site is subject to Title V of the federal
7 Clean Air Act (42 U.S.C. Section 7661 et seq.); and

8 (C) the potential for a violation at the site
9 that is attributable to the nature and complexity of the site.

10 (d) The commission by rule may require ~~[shall establish~~
11 ~~methods of assessing the compliance history of regulated entities~~
12 ~~for which it does not have adequate compliance information. The~~
13 ~~methods may include requiring]~~ a compliance inspection to determine
14 an entity's eligibility for participation in a program that
15 requires a high level of compliance.

16 (e) The commission by rule shall provide for the use of
17 compliance history ~~[classifications]~~ in commission decisions
18 regarding:

19 (1) the issuance, renewal, amendment, modification,
20 denial, suspension, or revocation of a permit;

21 (2) enforcement;

22 (3) the use of announced inspections; and

23 (4) participation in innovative programs.

24 (e-1) In using a person's compliance history classification
25 for an enforcement purpose, the components used to determine that
26 compliance history classification may not be used individually for
27 penalty enhancement or escalation.

1 (g) Rules adopted under Subsection (e) for the use of
2 compliance history shall provide for additional oversight of, and
3 review of applications regarding, facilities owned or operated by a
4 person whose compliance performance is classified as
5 unsatisfactory according to commission standards [~~in the lowest~~
6 ~~classification developed under this section~~].

7 (h) The commission by rule shall, at a minimum, prohibit a
8 person whose compliance history is classified as unsatisfactory
9 according to commission standards [~~in the lowest classification~~
10 ~~developed under this section~~] from[+]

11 [~~(1) receiving an announced inspection; and~~
12 [~~(2)~~] obtaining or renewing a flexible permit under
13 the program administered by the commission under Chapter 382,
14 Health and Safety Code, or participating in the regulatory
15 flexibility program administered by the commission under Section
16 5.758.

17 SECTION 4.06. Section 5.755(b), Water Code, is amended to
18 read as follows:

19 (b) The strategically directed regulatory structure shall
20 offer incentives based on:

21 (1) a person's compliance history [~~classification~~];
22 and

23 (2) any voluntary measures undertaken by the person to
24 improve environmental quality.

25 SECTION 4.07. Section 5.756, Water Code, is amended by
26 adding Subsection (e) to read as follows:

27 (e) Before compliance performance information about a site

1 may be placed on the Internet under this subchapter, the
2 information must be evaluated through a quality assurance and
3 control procedure, including a 30-day period for the owner or
4 operator of the site to review and comment on the information.

5 SECTION 4.08. Sections 5.758(a), (b), (d), and (h), Water
6 Code, are amended to read as follows:

7 (a) The commission by order may exempt an applicant from a
8 requirement of a statute or commission rule regarding the control
9 or abatement of pollution if the applicant proposes to control or
10 abate pollution by an alternative method or by applying an
11 alternative standard that is:

12 (1) as [more] protective of the environment and the
13 public health as [than] the method or standard prescribed by the
14 statute or commission rule that would otherwise apply; and

15 (2) not inconsistent with federal law.

16 (b) The commission may not exempt an applicant under this
17 section unless the applicant can present to the commission
18 ~~[documented]~~ evidence that the alternative the applicant proposes
19 is as protective of the environment and the public health as the
20 method or standard prescribed by the statute or commission rule
21 that would otherwise apply ~~[of benefits to environmental quality~~
22 ~~that will result from the project the applicant proposes]~~.

23 (d) The commission's order must provide a ~~[specific]~~
24 description of the alternative method or standard and condition the
25 exemption on compliance with the method or standard as the order
26 prescribes.

27 (h) In implementing the program of regulatory flexibility

1 authorized by this section, the commission shall:

2 (1) promote [~~market~~] the program to businesses in the
3 state through all available appropriate media;

4 (2) endorse alternative methods that will clearly
5 benefit the environment and impose the least onerous restrictions
6 on business;

7 (3) fix and enforce environmental standards, allowing
8 businesses flexibility in meeting the standards in a manner that
9 clearly enhances environmental outcomes; and

10 (4) work to achieve consistent and predictable results
11 for the regulated community and shorter waits for permit issuance.

12 SECTION 4.09. Subchapter A, Chapter 7, Water Code, is
13 amended by adding Section 7.006 to read as follows:

14 Sec. 7.006. ENFORCEMENT POLICIES. (a) The commission by
15 rule shall adopt a general enforcement policy that describes the
16 commission's approach to enforcement.

17 (b) The commission shall assess, update, and publicly adopt
18 specific enforcement policies regularly, including policies
19 regarding the calculation of penalties.

20 (c) The commission shall make the policies available to the
21 public, including by posting the policies on the commission's
22 Internet website.

23 SECTION 4.10. Sections 7.052(a) and (c), Water Code, are
24 amended to read as follows:

25 (a) The amount of the penalty for a violation of Chapter 37
26 of this code, Chapter 366, 371, or 372, Health and Safety Code, or
27 Chapter 1903, Occupations Code, may not be less than \$50 or greater

1 than \$5,000 [~~exceed \$2,500~~] a day for each violation.

2 (c) The amount of the penalty for all other violations
3 within the jurisdiction of the commission to enforce may not be less
4 than \$50 or greater than \$25,000 [~~exceed \$10,000~~] a day for each
5 violation.

6 SECTION 4.11. Section 7.067, Water Code, is amended to read
7 as follows:

8 Sec. 7.067. SUPPLEMENTAL ENVIRONMENTAL PROJECTS. (a) The
9 commission may compromise, modify, or remit, with or without
10 conditions, an administrative penalty imposed under this
11 subchapter. In determining the appropriate amount of a penalty for
12 settlement of an administrative enforcement matter, the commission
13 may consider a respondent's willingness to contribute to
14 supplemental environmental projects that are approved by the
15 commission, giving preference to projects that benefit the
16 community in which the alleged violation occurred. The commission
17 may encourage the cleanup of contaminated property through the use
18 of supplemental environmental projects. The commission may approve
19 a supplemental environmental project with activities in territory
20 of the United Mexican States if the project substantially benefits
21 territory in this state in a manner described by Subsection (b).
22 Except as provided by Subsection (a-1), the [~~The~~] commission may
23 not approve a project that is necessary to bring a respondent into
24 compliance with environmental laws, that is necessary to remediate
25 environmental harm caused by the respondent's alleged violation, or
26 that the respondent has already agreed to perform under a
27 preexisting agreement with a governmental agency.

1 (a-1) The commission may approve a supplemental
2 environmental project that is necessary to bring a respondent into
3 compliance with environmental laws or that is necessary to
4 remediate environmental harm caused by the respondent's alleged
5 violation if the respondent is a local government.

6 (a-2) The commission shall develop a policy to prevent
7 regulated entities from systematically avoiding compliance through
8 the use of supplemental environmental projects under Subsection
9 (a-1), including a requirement for an assessment of:

10 (1) the respondent's financial ability to pay
11 administrative penalties;

12 (2) the ability of the respondent to remediate the
13 harm or come into compliance; and

14 (3) the need for corrective action.

15 (b) In this section:

16 (1) "Local government" means a school district,
17 county, municipality, junior college district, river authority,
18 water district or other special district, or other political
19 subdivision created under the constitution or a statute of this
20 state.

21 (2) "Supplemental [~~,"supplemental]~~ environmental
22 project" means a project that prevents pollution, reduces the
23 amount of pollutants reaching the environment, enhances the quality
24 of the environment, or contributes to public awareness of
25 environmental matters.

26 SECTION 4.12. Section 13.4151(a), Water Code, is amended to
27 read as follows:

1 (a) If a person, affiliated interest, or entity subject to
2 the jurisdiction of the commission violates this chapter or a rule
3 or order adopted under this chapter, the commission may assess a
4 penalty against that person, affiliated interest, or entity as
5 provided by this section. The penalty may be in an amount not less
6 than \$100 or greater than \$5,000 [~~to exceed \$500~~] a day. Each day a
7 violation continues may be considered a separate violation.

8 SECTION 4.13. Section 26.028(d), Water Code, is amended to
9 read as follows:

10 (d) Notwithstanding any other provision of this chapter,
11 the commission, at a regular meeting without the necessity of
12 holding a public hearing, may approve an application to renew or
13 amend a permit if:

14 (1) the applicant is not applying to:

15 (A) increase significantly the quantity of waste
16 authorized to be discharged; or

17 (B) change materially the pattern or place of
18 discharge;

19 (2) the activities to be authorized by the renewed or
20 amended permit will maintain or improve the quality of waste
21 authorized to be discharged;

22 (3) for NPDES permits, notice and the opportunity to
23 request a public meeting shall be given in compliance with NPDES
24 program requirements, and the commission shall consider and respond
25 to all timely received and significant public comment; and

26 (4) the commission determines that an applicant's
27 compliance history under the method for using [~~evaluating~~]

1 compliance history developed by the commission under Section 5.754
2 raises no issues regarding the applicant's ability to comply with a
3 material term of its permit.

4 SECTION 4.14. Section 26.0281, Water Code, is amended to
5 read as follows:

6 Sec. 26.0281. CONSIDERATION OF COMPLIANCE HISTORY. In
7 considering the issuance, amendment, or renewal of a permit to
8 discharge effluent comprised primarily of sewage or municipal
9 waste, the commission shall consider the compliance history of the
10 applicant and its operator under the method for using [~~evaluating~~]
11 compliance history developed by the commission under Section 5.754.
12 In considering an applicant's compliance history under this
13 subsection, the commission shall consider as evidence of compliance
14 information regarding the applicant's implementation of an
15 environmental management system at the facility for which the
16 permit, permit amendment, or permit renewal is sought. In this
17 section, "environmental management system" has the meaning
18 assigned by Section 5.127.

19 SECTION 4.15. Section 26.040(h), Water Code, is amended to
20 read as follows:

21 (h) Notwithstanding other provisions of this chapter, the
22 commission, after hearing, shall deny or suspend a discharger's
23 authority to discharge under a general permit if the commission
24 determines that the discharger's compliance history is classified
25 as unsatisfactory according to commission standards [~~in the lowest~~
26 ~~classification~~] under Sections 5.753 and 5.754 and rules adopted
27 and procedures developed under those sections. A hearing under this

1 subsection is not subject to Chapter 2001, Government Code.

2 SECTION 4.16. Section 26.3467, Water Code, is amended by
3 adding Subsection (d) to read as follows:

4 (d) A person may not deliver any regulated substance into an
5 underground storage tank regulated under this chapter unless the
6 underground storage tank has been issued a valid, current
7 underground storage tank registration and certificate of
8 compliance under Section 26.346. The commission may impose an
9 administrative penalty against a person who violates this
10 subsection. The commission shall adopt rules as necessary to
11 enforce this subsection.

12 SECTION 4.17. Section 26.351, Water Code, is amended by
13 adding Subsections (c-1) and (c-2) to read as follows:

14 (c-1) The commission may undertake corrective action to
15 remove an underground or aboveground storage tank that:

16 (1) is not in compliance with the requirements of this
17 chapter;

18 (2) is out of service;

19 (3) presents a contamination risk; and

20 (4) is owned or operated by a person who is financially
21 unable to remove the tank.

22 (c-2) The commission shall adopt rules to implement
23 Subsection (c-1), including rules regarding:

24 (1) the determination of the financial ability of the
25 tank owner or operator to remove the tank; and

26 (2) the assessment of the potential risk of
27 contamination from the site.

1 SECTION 4.18. Section 26.3573(d), Water Code, is amended to
2 read as follows:

3 (d) The commission may use the money in the petroleum
4 storage tank remediation account to pay:

5 (1) necessary expenses associated with the
6 administration of the petroleum storage tank remediation account
7 and the groundwater protection cleanup program;

8 (2) expenses associated with investigation, cleanup,
9 or corrective action measures performed in response to a release or
10 threatened release from a petroleum storage tank, whether those
11 expenses are incurred by the commission or pursuant to a contract
12 between a contractor and an eligible owner or operator as
13 authorized by this subchapter;

14 (3) subject to the conditions of Subsection (f),
15 expenses associated with investigation, cleanup, or corrective
16 action measures performed in response to a release or threatened
17 release of hydraulic fluid or spent oil from hydraulic lift systems
18 or tanks located at a vehicle service and fueling facility and used
19 as part of the operations of that facility; ~~and~~

20 (4) expenses associated with assuring compliance with
21 the commission's applicable underground or aboveground storage
22 tank administrative and technical requirements, including
23 technical assistance and support, inspections, enforcement, and
24 the provision of matching funds for grants; and

25 (5) expenses associated with investigation, cleanup,
26 or corrective action measures performed under Section 26.351(c-1).

27 SECTION 4.19. Section 26.3574, Water Code, is amended by

1 amending Subsection (b) and adding Subsection (b-1) to read as
2 follows:

3 (b) A fee is imposed on the delivery of a petroleum product
4 on withdrawal from bulk of that product as provided by this
5 subsection. Each operator of a bulk facility on withdrawal from
6 bulk of a petroleum product shall collect from the person who orders
7 the withdrawal a fee in an amount determined as follows:

8 (1) not more than \$3.75 for each delivery into a cargo
9 tank having a capacity of less than 2,500 gallons [~~for the state~~
10 ~~fiscal year beginning September 1, 2007, through the state fiscal~~
11 ~~year ending August 31, 2011]~~;

12 (2) not more than \$7.50 for each delivery into a cargo
13 tank having a capacity of 2,500 gallons or more but less than 5,000
14 gallons [~~for the state fiscal year beginning September 1, 2007,~~
15 ~~through the state fiscal year ending August 31, 2011]~~;

16 (3) not more than \$11.75 for each delivery into a cargo
17 tank having a capacity of 5,000 gallons or more but less than 8,000
18 gallons [~~for the state fiscal year beginning September 1, 2007,~~
19 ~~through the state fiscal year ending August 31, 2011]~~;

20 (4) not more than \$15.00 for each delivery into a cargo
21 tank having a capacity of 8,000 gallons or more but less than 10,000
22 gallons [~~for the state fiscal year beginning September 1, 2007,~~
23 ~~through the state fiscal year ending August 31, 2011]~~; and

24 (5) not more than \$7.50 for each increment of 5,000
25 gallons or any part thereof delivered into a cargo tank having a
26 capacity of 10,000 gallons or more [~~for the state fiscal year~~
27 ~~beginning September 1, 2007, through the state fiscal year ending~~

1 ~~August 31, 2011~~].

2 (b-1) The commission by rule shall set the amount of the fee
3 in Subsection (b) in an amount not to exceed the amount necessary to
4 cover the agency's costs of administering this subchapter, as
5 indicated by the amount appropriated by the legislature from the
6 petroleum storage tank remediation account for that purpose.

7 SECTION 4.20. Section 27.025(g), Water Code, is amended to
8 read as follows:

9 (g) Notwithstanding the other provisions of this chapter,
10 the commission, after hearing, shall deny or suspend authorization
11 for the use of an injection well under a general permit if the
12 commission determines that the owner's compliance history is
13 classified as unsatisfactory according to commission standards [~~in~~
14 ~~the lowest classification~~] under Sections 5.753 and 5.754 and rules
15 adopted and procedures developed under those sections. A hearing
16 under this subsection is not subject to the requirements relating
17 to a contested case hearing under Chapter 2001, Government Code.

18 SECTION 4.21. Section 27.051(d), Water Code, is amended to
19 read as follows:

20 (d) The commission, in determining if the use or
21 installation of an injection well is in the public interest under
22 Subsection (a)(1), shall consider, but shall not be limited to the
23 consideration of:

24 (1) compliance history of the applicant and related
25 entities under the method for using [~~evaluating~~] compliance history
26 developed by the commission under Section 5.754 and in accordance
27 with the provisions of Subsection (e);

1 (2) whether there is a practical, economic, and
2 feasible alternative to an injection well reasonably available; and

3 (3) if the injection well will be used for the disposal
4 of hazardous waste, whether the applicant will maintain sufficient
5 public liability insurance for bodily injury and property damage to
6 third parties that is caused by sudden and non-sudden accidents or
7 will otherwise demonstrate financial responsibility in a manner
8 adopted by the commission in lieu of public liability insurance. A
9 liability insurance policy which satisfies the policy limits
10 required by the hazardous waste management regulations of the
11 commission for the applicant's proposed pre-injection facilities
12 shall be deemed "sufficient" under this subdivision if the policy:

13 (A) covers the injection well; and

14 (B) is issued by a company that is authorized to
15 do business and to write that kind of insurance in this state and is
16 solvent and not currently under supervision or in conservatorship
17 or receivership in this state or any other state.

18 SECTION 4.22. Section 32.101(c), Water Code, is amended to
19 read as follows:

20 (c) The commission, in determining if the use or
21 installation of a subsurface area drip dispersal system is in the
22 public interest under Subsection (a)(1), shall consider:

23 (1) compliance history of the applicant and related
24 entities under the method for using [~~evaluating~~] compliance history
25 developed by the commission under Section 5.754 and in accordance
26 with the provisions of Subsection (d) of this section;

27 (2) whether there is a practical, economic, and

1 feasible alternative to a subsurface area drip dispersal system
2 reasonably available; and

3 (3) any other factor the commission considers
4 relevant.

5 SECTION 4.23. Sections 361.089(a), (e), and (f), Health and
6 Safety Code, are amended to read as follows:

7 (a) The commission may, for good cause, deny or amend a
8 permit it issues or has authority to issue for reasons pertaining to
9 public health, air or water pollution, or land use, or for having a
10 compliance history that is classified as unsatisfactory according
11 to commission standards [~~in the lowest classification~~] under
12 Sections 5.753 and 5.754, Water Code, and rules adopted and
13 procedures developed under those sections.

14 (e) The commission may deny an original or renewal permit if
15 it is found, after notice and hearing, that:

16 (1) the applicant or permit holder has a compliance
17 history that is classified as unsatisfactory according to
18 commission standards [~~in the lowest classification~~] under Sections
19 5.753 and 5.754, Water Code, and rules adopted and procedures
20 developed under those sections;

21 (2) the permit holder or applicant made a false or
22 misleading statement in connection with an original or renewal
23 application, either in the formal application or in any other
24 written instrument relating to the application submitted to the
25 commission, its officers, or its employees;

26 (3) the permit holder or applicant is indebted to the
27 state for fees, payment of penalties, or taxes imposed by this title

1 or by a rule of the commission; or

2 (4) the permit holder or applicant is unable to ensure
3 that the management of the hazardous waste management facility
4 conforms or will conform to this title and the rules of the
5 commission.

6 (f) Before denying a permit under this section, the
7 commission must find:

8 (1) that the applicant or permit holder has a
9 compliance history that is classified as unsatisfactory according
10 to commission standards [~~in the lowest classification~~] under
11 Sections 5.753 and 5.754, Water Code, and rules adopted and
12 procedures developed under those sections; or

13 (2) that the permit holder or applicant is indebted to
14 the state for fees, payment of penalties, or taxes imposed by this
15 title or by a rule of the commission.

16 SECTION 4.24. Section 382.0518(c), Health and Safety Code,
17 is amended to read as follows:

18 (c) In considering the issuance, amendment, or renewal of a
19 permit, the commission may consider the applicant's compliance
20 history in accordance with the method for using [~~evaluating~~]
21 compliance history developed by the commission under Section 5.754,
22 Water Code. In considering an applicant's compliance history under
23 this subsection, the commission shall consider as evidence of
24 compliance information regarding the applicant's implementation of
25 an environmental management system at the facility for which the
26 permit, permit amendment, or permit renewal is sought. In this
27 subsection, "environmental management system" has the meaning

1 assigned by Section 5.127, Water Code.

2 SECTION 4.25. Section 382.056(o), Health and Safety Code,
3 is amended to read as follows:

4 (o) Notwithstanding other provisions of this chapter, the
5 commission may hold a hearing on a permit amendment, modification,
6 or renewal if the commission determines that the application
7 involves a facility for which the applicant's compliance history is
8 classified as unsatisfactory according to commission standards [~~in~~
9 ~~the lowest classification~~] under Sections 5.753 and 5.754, Water
10 Code, and rules adopted and procedures developed under those
11 sections.

12 SECTION 4.26. Section 401.110(a), Health and Safety Code,
13 is amended to read as follows:

14 (a) In making a determination whether to grant, deny, amend,
15 renew, revoke, suspend, or restrict a license or registration, the
16 commission may consider an applicant's or license holder's
17 technical competence, financial qualifications, and compliance
18 history under the method for using [~~evaluation of~~] compliance
19 history developed by the commission under Section 5.754, Water
20 Code.

21 SECTION 4.27. Section 401.112(a), Health and Safety Code,
22 is amended to read as follows:

23 (a) The commission, in making a licensing decision on a
24 specific license application to process or dispose of low-level
25 radioactive waste from other persons, shall consider:

26 (1) site suitability, geological, hydrological, and
27 meteorological factors, and natural hazards;

- 1 (2) compatibility with present uses of land near the
2 site;
- 3 (3) socioeconomic effects on surrounding communities
4 of operation of the licensed activity and of associated
5 transportation of low-level radioactive waste;
- 6 (4) the need for and alternatives to the proposed
7 activity, including an alternative siting analysis prepared by the
8 applicant;
- 9 (5) the applicant's qualifications, including:
 - 10 (A) financial and technical qualifications and
11 compliance history under the method for using ~~[evaluation of]~~
12 compliance history developed by the commission under Section 5.754,
13 Water Code, for an application to the commission; and
 - 14 (B) the demonstration of financial
15 qualifications under Section 401.108;
- 16 (6) background monitoring plans for the proposed site;
- 17 (7) suitability of facilities associated with the
18 proposed activities;
- 19 (8) chemical, radiological, and biological
20 characteristics of the low-level radioactive waste and waste
21 classification under Section 401.053;
- 22 (9) adequate insurance of the applicant to cover
23 potential injury to any property or person, including potential
24 injury from risks relating to transportation;
- 25 (10) training programs for the applicant's employees;
- 26 (11) a monitoring, record-keeping, and reporting
27 program;

1 (12) spill detection and cleanup plans for the
2 licensed site and related to associated transportation of low-level
3 radioactive waste;

4 (13) decommissioning and postclosure care plans;

5 (14) security plans;

6 (15) worker monitoring and protection plans;

7 (16) emergency plans; and

8 (17) a monitoring program for applicants that includes
9 prelicense and postlicense monitoring of background radioactive
10 and chemical characteristics of the soils, groundwater, and
11 vegetation.

12 SECTION 4.28. (a) Not later than September 1, 2012, the
13 Texas Commission on Environmental Quality by rule shall establish
14 the method for evaluating compliance history as required by Section
15 5.753(a), Water Code, as amended by this article. Until the
16 commission adopts that method, the commission shall continue in
17 effect its current standard for evaluating compliance history.

18 (b) The changes in law made by Sections 7.052 and 13.4151,
19 Water Code, as amended by this article, apply only to a violation
20 that occurs on or after the effective date of this Act. For
21 purposes of this section, a violation occurs before the effective
22 date of this Act if any element of the violation occurs before that
23 date. A violation that occurs before the effective date of this Act
24 is covered by the law in effect on the date the violation occurred,
25 and the former law is continued in effect for that purpose.

26 (c) The change in law made by Section 26.3467(d), Water
27 Code, as added by this article, applies only to a delivery of a

1 regulated substance to a petroleum storage tank made on or after the
2 effective date of this Act.

3 (d) The fee applicable to a delivery in Section 26.3574(b),
4 Water Code, as that subsection existed immediately before the
5 effective date of this Act, remains in effect until the Texas
6 Commission on Environmental Quality adopts and implements a fee
7 applicable to that delivery under Section 26.3574(b-1), Water Code,
8 as added by this Act.

9 ARTICLE 5. WATER RIGHTS

10 SECTION 5.01. Section 11.031, Water Code, is amended by
11 adding Subsections (d), (e), (f), and (g) to read as follows:

12 (d) Each person who has a water right issued by the
13 commission or who impounds, diverts, or otherwise uses state water
14 shall maintain water use information on a monthly basis during the
15 months a water rights holder uses permitted water. The person shall
16 make the information available to the commission on the
17 commission's request.

18 (e) The commission may request information maintained under
19 Subsection (d) only during a drought or other emergency shortage of
20 water.

21 (f) A person submitting a report under Subsection (a) is not
22 required to include information maintained under Subsection (d).

23 (g) Subsections (e) and (f) do not affect the authority of a
24 watermaster to obtain water use information under other law.

25 SECTION 5.02. Subchapter B, Chapter 11, Water Code, is
26 amended by adding Section 11.053 to read as follows:

27 Sec. 11.053. EMERGENCY ORDER CONCERNING WATER RIGHTS. (a)

1 During a period of drought or other emergency shortage of water, the
2 executive director by order may:

3 (1) temporarily suspend the right of any person who
4 holds a water right to use the water; and

5 (2) adjust the allocation of water between water
6 rights holders.

7 (b) The executive director in ordering a suspension or an
8 allocation adjustment under this section shall ensure that an
9 action taken:

10 (1) maximizes the beneficial use of water;

11 (2) minimizes the impact on water rights holders; and

12 (3) prevents the waste of water.

13 (c) The commission shall adopt rules to implement this
14 section, including rules to determine the conditions under which
15 the executive director may take action under this section.

16 SECTION 5.03. Section 11.326, Water Code, is amended by
17 adding Subsections (g) and (h) to read as follows:

18 (g) For a water basin in which a watermaster is not
19 appointed, the executive director shall:

20 (1) evaluate the water basin at least once every five
21 years to determine whether a watermaster should be appointed; and

22 (2) report the findings and make recommendations to
23 the commission.

24 (h) The commission shall:

25 (1) determine the criteria or risk factors to be
26 considered in an evaluation under Subsection (g); and

27 (2) include the findings and recommendations under

1 Subsection (g) in the commission's biennial report to the
2 legislature.

3 ARTICLE 6. FUNDING

4 SECTION 6.01. Section 401.246(a), Health and Safety Code,
5 is amended to read as follows:

6 (a) Compact waste disposal fees adopted by the commission
7 must be sufficient to:

8 (1) allow the compact waste facility license holder to
9 recover costs of operating and maintaining the compact waste
10 disposal facility and a reasonable profit on the operation of that
11 facility;

12 (2) provide an amount necessary to meet future costs
13 of decommissioning, closing, and postclosure maintenance and
14 surveillance of the compact waste disposal facility and the compact
15 waste disposal facility portion of the disposal facility site;

16 (3) provide an amount to fund local public projects
17 under Section 401.244;

18 (4) provide a reasonable rate of return on capital
19 investment in the facilities used for management or disposal of
20 compact waste at the compact waste disposal facility; ~~and~~

21 (5) provide an amount necessary to pay compact waste
22 disposal facility licensing fees, to pay compact waste disposal
23 facility fees set by rule or statute, and to provide security for
24 the compact waste disposal facility as required by the commission
25 under law and commission rules; and

26 (6) provide an amount necessary to support the
27 activities of the Texas Low-Level Radioactive Waste Disposal

1 Compact Commission.

2 SECTION 6.02. Subchapter F, Chapter 401, Health and Safety
3 Code, is amended by adding Section 401.251 to read as follows:

4 Sec. 401.251. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT
5 COMMISSION ACCOUNT. (a) The low-level radioactive waste disposal
6 compact commission account is an account in the general revenue
7 fund.

8 (b) The commission shall deposit in the account the portion
9 of the fee collected under Section 401.245 that is calculated to
10 support the activities of the Texas Low-Level Radioactive Waste
11 Disposal Compact Commission as required by Section 4.04(4), Texas
12 Low-Level Radioactive Waste Disposal Compact (Section 403.006 of
13 this code).

14 (c) Money in the account may be appropriated only to support
15 the operations of the Texas Low-Level Radioactive Waste Disposal
16 Compact Commission.

17 SECTION 6.03. Sections 5.701(n) and (p), Water Code, are
18 amended to read as follows:

19 (n)(1) Each provider of potable water or sewer utility
20 service shall collect a regulatory assessment from each retail
21 customer as follows:

22 (A) A public utility as defined in Section 13.002
23 [~~of this code~~] shall collect from each retail customer a regulatory
24 assessment equal to one percent of the charge for retail water or
25 sewer service.

26 (B) A water supply or sewer service corporation
27 as defined in Section 13.002 [~~of this code~~] shall collect from each

1 retail customer a regulatory assessment equal to [~~one-half of~~] one
2 percent of the charge for retail water or sewer service.

3 (C) A district as defined in Section 49.001 [~~of~~
4 ~~this code~~] that provides potable water or sewer utility service to
5 retail customers shall collect from each retail customer a
6 regulatory assessment equal to [~~one-half of~~] one percent of the
7 charge for retail water or sewer service.

8 (2) The regulatory assessment may be listed on the
9 customer's bill as a separate item and shall be collected in
10 addition to other charges for utility services.

11 (3) The [~~commission shall use the~~] assessments
12 collected under this subsection may be appropriated by a rider to
13 the General Appropriations Act to an agency with duties related to
14 water and sewer utility regulation solely to pay costs and expenses
15 incurred by the agency [~~commission~~] in the regulation of districts,
16 water supply or sewer service corporations, and public utilities
17 under Chapter 13[~~, Water Code~~].

18 (4) The commission shall annually use a portion of the
19 assessments to provide on-site technical assistance and training to
20 public utilities, water supply or sewer service corporations, and
21 districts. The commission shall contract with others to provide
22 the services.

23 (5) The commission by rule may establish due dates,
24 collection procedures, and penalties for late payment related to
25 regulatory assessments under this subsection. The executive
26 director shall collect all assessments from the utility service
27 providers.

1 (6) The commission shall assess a penalty against a
2 municipality with a population of more than 1.5 million that does
3 not provide municipal water and sewer services in an annexed area in
4 accordance with Section 43.0565, Local Government Code. A penalty
5 assessed under this paragraph shall be not more than \$1,000 for each
6 day the services are not provided after March 1, 1998, for areas
7 annexed before January 1, 1993, or not provided within 4-1/2 years
8 after the effective date of the annexation for areas annexed on or
9 after January 1, 1993. A penalty collected under this paragraph
10 shall be deposited to the credit of the water resource management
11 account to be used to provide water and sewer service to residents
12 of the city.

13 (7) The regulatory assessment does not apply to water
14 that has not been treated for the purpose of human consumption.

15 (p) Notwithstanding any other law, fees collected for
16 deposit to the water resource management account under the
17 following statutes may be appropriated and used to protect water
18 resources in this state, including assessment of water quality,
19 reasonably related to the activities of any of the persons required
20 to pay a fee under:

21 (1) Subsection (b), to the extent those fees are paid
22 by water districts, and Subsections (e), (f), and (n);

23 (2) ~~[Sections 13.4521 and 13.4522, or~~

24 ~~[3)]~~ Section 54.037(c); or

25 (3) Section 367.010, Health and Safety Code.

26 SECTION 6.04. Subchapter L, Chapter 13, Water Code, is
27 repealed.

1 SECTION 6.05. The changes in law made by Section 5.701,
2 Water Code, as amended by this article, apply only to a fee assessed
3 on or after January 1, 2012. A fee assessed before January 1, 2012,
4 is governed by the law in effect at the time the fee was assessed,
5 and the former law is continued in effect for that purpose.

6 ARTICLE 7. WATER AND SEWER UTILITIES

7 SECTION 7.01. Subchapter E, Chapter 13, Water Code, is
8 amended by adding Section 13.1325 to read as follows:

9 Sec. 13.1325. ELECTRONIC COPIES OF RATE INFORMATION. On
10 request, the state agency with jurisdiction over rates charged by
11 water and sewer utilities shall provide, at a reasonable cost,
12 electronic copies of all information provided to the agency under
13 Sections 13.016, 13.043, and 13.187, to the extent that the
14 information is available electronically and is not confidential.

15 ARTICLE 8. ABOLITION OF THE ON-SITE WASTEWATER TREATMENT RESEARCH
16 COUNCIL

17 SECTION 8.01. The heading to Chapter 367, Health and Safety
18 Code, is amended to read as follows:

19 CHAPTER 367. ON-SITE WASTEWATER TREATMENT RESEARCH [~~COUNCIL~~]

20 SECTION 8.02. Section 367.001, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 367.001. DEFINITIONS. In this chapter:

23 (1) "Commission" means the Texas Commission on
24 Environmental Quality [~~Natural Resource Conservation Commission~~].

25 (2) [~~"Council" means the On-site Wastewater Treatment~~
26 ~~Research Council.~~]

27 [~~(3)~~] "On-site wastewater treatment system" means a

1 system of treatment devices or disposal facilities that:

2 (A) is used for the disposal of domestic sewage,
3 excluding liquid waste resulting from the processes used in
4 industrial and commercial establishments;

5 (B) is located on the site where the sewage is
6 produced; and

7 (C) produces not more than 5,000 gallons of waste
8 a day.

9 SECTION 8.03. Section 367.007, Health and Safety Code, is
10 amended to read as follows:

11 Sec. 367.007. ADMINISTRATION. (a) ~~[The council is not an~~
12 ~~advisory body to the commission. The commission, at the direction~~
13 ~~of the council, shall implement council decisions.]~~

14 ~~[(b) The council may enter into an interagency contract with~~
15 ~~the commission to provide staff and other administrative support as~~
16 ~~required to improve the quality of wastewater treatment and reduce~~
17 ~~the cost of providing wastewater treatment to consumers.]~~

18 [(c)] The commission ~~[council]~~ may accept grants and
19 donations from other sources to supplement the fees collected under
20 Section 367.010. Grants and donations shall be deposited to the
21 credit of the water resource management ~~[on-site wastewater~~
22 ~~treatment research]~~ account and may be disbursed as the commission
23 ~~[council]~~ directs and in accordance with Section 367.008.

24 (b) ~~[(d)]~~ Administrative and facilities support costs are
25 payable from the water resources management ~~[on-site wastewater~~
26 ~~treatment research]~~ account.

27 ~~[(e) The council may award grants and enter into contracts~~

1 ~~in its own name and on its own behalf.]~~

2 SECTION 8.04. Section 367.008, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 367.008. AWARD OF COMPETITIVE GRANTS. (a) The
5 commission [~~council~~] shall establish procedures for awarding
6 competitive grants and disbursing grant money.

7 (b) The commission [~~council~~] may award competitive grants
8 to:

9 (1) support applied research and demonstration
10 projects by accredited colleges and universities in this state, by
11 other governmental entities, or by acceptable public or private
12 research centers regarding on-site wastewater treatment technology
13 and systems applicable to this state that are directed toward
14 improving the quality of wastewater treatment and reducing the cost
15 of providing wastewater treatment to consumers; and

16 (2) enhance technology transfer regarding on-site
17 wastewater treatment by using educational courses, seminars,
18 symposia, publications, and other forms of information
19 dissemination.

20 (c) The commission shall seek the advice of relevant experts
21 when choosing research topics, awarding grants, and holding
22 educational conferences associated with activities under this
23 chapter. [~~The council may award grants or make other expenditures~~
24 ~~authorized under this chapter only after the comptroller certifies~~
25 ~~that the on-site wastewater treatment research account contains~~
26 ~~enough money to pay for those expenditures.]~~

27 SECTION 8.05. Section 367.009, Health and Safety Code, is

